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SESSIONAL WORKING GROUP OF GOVERNMENTAL EXPERTS ON
THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

SUMMARY RECORD OF THE 11th MEETING

Held at Headquarters, New York,
on Monday, 21 April 1986, at 3 p.m.

Chairman: Mr. RUIZ-CABAÑAS (Mexico)

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Consideration of reports submitted in accordance with Council resolution 1988 (LX) by States parties to the Covenant concerning rights covered by articles 10 to 12 (continued)

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX) BY STATES PARTIES TO THE COVENANT CONCERNING RIGHTS COVERED BY ARTICLES 10 TO 12 (continued)

Second periodic report of Australia (continued) (E/1986/4/Add.7)

1. At the invitation of the Chairman, Mr. Quinn (Australia) took a place at the table.

2. Mr. MRACHKOV (Bulgaria) requested more information on the Aboriginal population, discussed under various rubrics in the report, especially concerning their employment, standard of living and education, and the Government's policy of having them manage their own affairs.

3. Regarding divorce, it would be useful to know what the trend had been in the period covered by the report and the ratio of marriages to divorces.

4. Concering the protection of working women, he wished to know what proportion of the work force they represented, what percentage of women were employed and how women's pay compared to that of men. Australian policy with regard to maternity leave (paras. 73-76 of the report) clearly did not comply with the Covenant, article 10 (2) of which explicitly referred to the need to accord reasonable paid leave or leave with adequate social security benefits to working mothers before and after childbirth. It was not clear whether the right of Australian women to take up to 52 weeks of unpaid maternity leave was a matter of legislation at the State level. At any rate, did the Government have any plans to enact legislation establishing paid maternity leave?

5. He asked what the minimum working age was, and requested more information on child labour and on the sectors in which children were employed, especially in agriculture. With regard to immigrants, more information would be useful on their employment and wages and the education of their children. On the question of unemployment, he would like statistics on the numbers and categories of the unemployed, on their social-security coverage, the amount and length of unemployment benefits and recent unemployment trends in Australia. Concerning the right to housing, more information should be provided on measures protecting tenants against unreasonable rent increases and on the termination of leases.

6. The table on infant-mortality rates (para. 250 of the report) gave a shockingly high rate of 30 per thousand for Aboriginals as against approximately 10 per thousand for the general population. What steps was the Government taking or planning to reduce that figure?

7. He asked for more details regarding penalties for violation of environmental protection laws, and more information on drug and alcohol abuse in Australia, including any statistics on addiction.

(Mr. Mrachkov, Bulgaria)

8. Noting that 50 per cent of couples over the age of 35 used sterilization as the preferred form of contraception (para. 319), he wondered whether it was the Government's policy to encourage sterilization. Regarding medical services generally, what proportion was provided by the public sector as opposed to the private sector, and what policies was the Government pursuing to develop public medical services?

9. Australia was a relatively new country which, as indicated in paragraph 27 of the report, had an admirably liberal immigration policy based on jus soli (the law of the soil) rather than jus sanguinis (the law of blood), to judge from the Au Yeung case. Compared to the current campaigns being waged against aliens in his own and other European countries, he found the Australian policies very enlightened.

10. He noted also the important role of non-governmental organizations in providing help to disadvantaged families and in serving on joint commissions with State authorities, and found it a particularly good way to involve citizens in the protection of children.

11. Regarding taxation (paras. 58-62 of the report), was his understanding correct that the tax rebates mentioned had a fixed ceiling?

12. While the Government had enacted many excellent provisions guaranteeing protection for mothers and children (e.g., paras. 71, 112 and 117 of the report), the provisions for maternity leave were indeed clearly inadequate.

13. He noted Australia's efforts to respect Aboriginal traditions (paras. 120 ff.) and customary law (paras. 123 and 31-32). A balance needed to be struck, however, between that concern and the need to unify a nation's legislation, and the solution was not simple. Regarding the question of migrants and refugees (paras. 129-136) in a multi-cultural society such as Australia, he noted that a great effort had been made on behalf of South-East Asian refugees and wondered whether Australia had also taken in other refugee groups.

14. With regard to unemployment - which was covered rather by articles 6 to 9 of the Covenant - he asked what percentage of young people were unemployed.

15. In connection with the right to housing, it was notable that 70 per cent of all households owned their own housing, surely one of the world's highest ratios. It would be interesting to have more information, however, on whatever tenants' associations existed to assist households living in rented housing.

16. As part of the medical services provided, Australia seemed to be following a policy of non-institutional treatment, wherever possible, of psychiatric patients (paras. 243 and 244) and he would like further information on how such a system worked in Australia, that being undoubtedly the direction of the future where psychiatric treatment was concerned. In addition, regarding optional sterilization as a method of contraception he asked whether men resorted to it as frequently as

(Mr. Mrachkov, Bulgaria)

women. Also, it would be interesting to know if there were any endemic diseases in certain regions of Australia and what was being done to control them. Were there more diseases among Aboriginals, and what particular difficulties had the Government experienced in providing the Aboriginals with medical treatment?

17. Mrs. KIMATA (Japan) said that Australia was to be commended for the many progressive changes it had made in its legislation since its initial report, particularly in 1983 and 1984 (paras. 19 and 20 of the second periodic report) and for the considerable anti-discrimination legislation it had enacted (paras. 14 ff.). She asked if, in the anti-discrimination area, federal legislation took precedence over State legislation, and what precisely was the relation between the two. She would also appreciate more information on the South Australian Act and the New South Wales Anti-Discrimination Act covering homosexuality, bisexuality and transsexuality (para. 15). She wondered if the individual States generally were adopting such legislation, and if the conclusion should be drawn that homosexuality was a growing social problem in Australia.

18. Mrs. JIMENEZ BUTRANGUEÑO (Spain) said that more details on the Australian population would be useful. It would be interesting to learn whether multiple births (para. 46 of the report) presented a problem in Australia.

19. Paragraph 58 referred to changes in the taxation system, and she wished to know whether those changes would result in stricter or more lenient taxation.

20. She asked whether Australia was considering the possibility of improving maternity benefits, including paid maternity leave as well as paid leave for fathers.

21. It would be interesting to know whether the establishment of women's refuges (para. 117) reflected a trend towards increased family violence.

22. She inquired whether the past practice of removing Aboriginal children from their parents as part of a policy of assimilation had had any lasting results. Additional information regarding health-service benefits for Aboriginals should be provided. It would be interesting to learn to what extent Aboriginals, especially women, had been integrated into the labour market. She also asked what percentage of the Aboriginal population was covered by health insurance.

23. Mr. LY (Senegal) asked whether the Australian delegation had any proposals to make, or ideas to share with the Working Group, regarding the implementation of the Covenant in Australia. Referring to the major changes made by the federal Government to remove differences in the treatment of different categories of non-Australian citizens (paras. 19 and 20), he inquired whether those changes represented the only possible solution.

24. Paragraph 102 indicated that there was no general legislation governing the type of work or the hours of work undertaken by young persons. It seemed that such persons should be directed towards specific types of employment, and he requested clarification in that regard.

(Mr. Ly, Senegal)

25. It would be interesting to learn how the legislation relating to the parentage of children conceived as a result of artificial insemination or in-vitro fertilization had affected the concept of marriage and the family. Were there any risks, and what precautions had been taken by Australian society?

26. Paragraphs 129 to 134 of the report seemed to refer only to Australia's cultural and educational programmes for migrants and ethnic families. It would be interesting to learn how other aspects of the lives of such people were protected.

27. He would also appreciate additional information on what Australia was doing to help countries improve their food production, and to resolve the world food problem in general.

28. Mr. KHODAKOV (Union of Soviet Socialist Republics), referring to paragraph 30 of the report, inquired whether both husband and wife had equal rights with regard to property and inheritance. It was unclear whether family allowances (para. 45) were paid to all low-income families. If not, what per cent of such families received allowances?

29. It would be interesting to learn what per cent of Aboriginal children had access to the services funded under the Children's Services Program (para. 54), and whether centres for Aboriginal children existed in areas where Aboriginals lived.

30. Referring to paragraph 58, he inquired what per cent of the State budget was financed by taxes.

31. With regard to maternity protection (paras. 69-81), he asked whether there was any legislation forbidding the dismissal of pregnant women from their jobs, or prohibiting employers from assigning pregnant women to tasks which were hazardous to their condition.

32. The legislation regarding artificial insemination and in-vitro fertilization was relatively new, and it would be useful to have more information about those practices in the next periodic report.

33. Referring to paragraphs 116 and 117, he inquired whether the Australian Government assumed custody of children who had been victims of child abuse, and whether parents could be deprived of patria potestas.

34. It would be interesting to learn whether the Australian Government had taken any measures to eliminate the social and economic disadvantages of Aboriginals (para. 125). How did the life span of Aboriginals compare to that of the white population? What was the ratio of representation of Aboriginals in high-level government, as compared with non-Aboriginals? How did the unemployment rate of Aboriginals compare with that of the non-Aboriginal population?

35. He inquired whether the Australian minimum-wages legislation (para. 144) provided for the payment of benefits to able-bodied persons who had never worked owing to various circumstances. It would be useful to have statistics regarding such persons.

(Mr. Khodakov, USSR)

36. He was surprised that all pet meat (other than canned) must be dyed in order to prevent its sale for human consumption (para. 162), and he wondered why that measure had been deemed necessary.

37. Paragraph 207 referred to a forthcoming report on homelessness and inadequate housing in Australia. Could Australia provide any preliminary data on those subjects? The report indicated that approximately 70 per cent of all dwellings in Australia were owner-occupied (para. 176), and he requested a breakdown of that figure into Aboriginal and non-Aboriginal owners. Did Aboriginals have the right to own land, in particular the land on which they lived?

38. In his introductory statement, the representative of Australia had referred to the Affirmative Action (Equal Opportunity for Women) Act. Why was the implementation of that Act limited to enterprises employing more than 100 workers, and what percentage of Australian enterprises employed less than 100 workers? It would be useful to know the actual sphere of application of that Act.

39. Mr. POERSCHKE (German Democratic Republic) inquired why Australia had not annexed the International Covenant to its Human Rights Commission Act (para. 17). Why had it been necessary to replace the Human Rights Commission Act by the Bill of Rights? It would be useful to have more information about how the rights guaranteed under the Covenant were reflected in the Bill of Rights.

40. The CHAIRMAN, speaking as a member of the Working Group, requested information regarding the rights of migrant workers. Was there any difference in Australia between a migrant worker as such and a temporary migrant worker?

41. It would be useful to have a definition of the Aboriginal population and to learn what percentage of the Australian population were Aboriginals. What had the size of the Aboriginal population been in 1960 as compared with 1986? Had there been any racial intermixture of Aboriginals with the European population of Australia?

42. It would be useful to have additional information on the nature and extent of drug addiction in Australia, and on the results of government programmes to combat that problem.

43. Mr. QUINN (Australia) thanked the experts for their questions, and said that the answers to some of them might have to be deferred until Australia's next report was submitted.

44. Mr. Quinn (Australia) withdrew.

Second periodic report of Iraq (continued) (E/1986/4/Add.3)

45. At the invitation of the Chairman, Mr. Aena (Iraq) took a place at the table.

46. Mr. AENA (Iraq), responding to questions raised by members, said that Iraqi men and women enjoyed equal economic, social and political rights. The lot of Iraqi women continued to improve. They had higher income than previously, and were more involved in such professions as banking, journalism, law, medicine and engineering.

47. Marriage and divorce provisions were set forth in the Shariah. The minimum age for marriage was 16 years for Iraqi women. According to 1980 statistics, the average age at marriage for women was 20.9 years in cities, and 20.3 years in rural areas. For men, it was 27.5 years in cities, and 27 years in rural areas. Pre-marital blood tests were required, and results were submitted for approval to a medical tribunal which could then authorize the marriage. Cohabitation was deemed unacceptable.

48. With regard to divorce, a judge appointed an arbiter to seek a compromise or agreement after being consulted by either spouse. If he failed, a second arbiter was appointed. After three successive arbiters had tried and failed, the judge proceeded to make the necessary divorce ruling.

49. Abortion was permissible, but only as stipulated by the Shariah, when the mother's life was endangered. There was no official birth-control programme, indeed the Government favoured a high birth rate.

50. With regard to education, there was a campaign to eliminate illiteracy by the year 1987.

51. The General Federation of Iraqi Women, founded in 1968, was the only Iraqi women's organization with national affiliates. It was represented at international conferences.

52. With regard to housing, there were both rented and privately-owned units.

53. The Welfare of Young Persons' Act aimed at reducing juvenile delinquency, and was a more constructive approach than inflicting Iraqi criminal-law punishment on child offenders, as had been the case previously.

54. The main price-control authorities were the People's Assembly and inspectors from the Ministry of Labour and Social Affairs.

55. The ongoing war between Iraq and Iran had no impact on Iraq's commitment to the Covenant. Furthermore, Iraq supported the new international economic order as a means of implementing the Covenant.

56. There were plans to construct more day-care centres in both cities and rural areas. The staff of existing centres were social researchers or graduates in education. The State provided periodic medical examinations for children.

57. With regard to demographic aspects, the urban population continued to grow, currently accounting for 50 per cent of the total population. The majority of migrants were of Egyptian origin.

(Mr. Aena, Iraq)

58. Provisions on land tenure and agrarian reform were set forth in several acts, as specified in paragraphs 73 to 75 of the report. Restrictions on land ownership varied from one area to another.

59. Iraq had never had an unemployment problem, and even prior to the conflict with Iran it had hosted foreign workers.

60. Inter-city transport was satisfactory, but there were insufficient links between villages.

61. The answers to other questions such as pollution control, the status of children born out of wedlock, inflation measures and the housing crisis would be provided in the next periodic report.

62. The CHAIRMAN said that the Working Group had concluded its consideration of the report of Iraq.

63. Mr. Aena (Iraq) withdrew.

Second periodic report of Finland (continued) (E/1986/4/Add.4)

64. At the invitation of the Chairman, Mr. Mikkola and Mr. Rusi (Finland) took places at the table.

65. Mr. MIKKOLA (Finland), replying to certain general questions raised at a previous meeting, said that environmental protection in Finland, a country with 60,000 lakes, a major pulp industry and an evenly distributed population, was of utmost importance. Public opinion had taken the question seriously, particularly air pollution and the new phenomenon of acid rain. The special Ministry established in 1983 to improve general environmental protection had already succeeded in strengthening regulations requiring industries as well as large cities to improve their protection mechanisms. The Ministry had started to modernize protection laws and had prepared an extensive programme for the protection of natural parks and similar areas. Food protection was the responsibility of health-care authorities and legislative reforms currently under preparation included a proposal to prohibit the importation or manufacture of consumer goods which were dangerous.

66. A problem caused by the relatively high market prices existed in the housing sector. Finland had fewer housing units available for sale or rental than other Nordic countries. The situation was particularly difficult for young people, young married couples, the homeless and people under institutional care. In order to alleviate the problem, the repayment period for mortgages had recently been extended and special support provided to young people for the purchase of their first homes. New houses had also been built for students in higher educational institutions, and municipalities had included special funds for housing in their five-year plans.

(Mr. Mikkola, Finland)

67. In view of the long Finnish winter, the 11,000 people living in vagrancy constituted a special problem. Such people were often between 30 and 50 years old, unmarried or divorced males, many of whom were unemployed and alcoholics. For the International Year of Shelter for the Homeless, the Government and municipalities were preparing a programme to provide homes for such people.

68. On the question of fees for health care, it was the Government's policy to provide free or heavily-subsidized health services. From the beginning of 1986, fees for persons between the ages of 18 and 26 for dental care had gone down to 20-40 per cent of the market prices. In future, all health care for chronically-ill patients under 18 years of age would probably be free of charge.

69. With regard to expenditure on public and private health care, public expenditure currently accounted for 80 per cent of total health-care costs in Finland. While the share of public services in overall health care was also very high, total expenditure on health care as a percentage of the gross national product was not as high as in many other countries such as Austria, Australia, Canada, France and the United States, in which a large part of the health services was private. Private health care was a stable yet flexible element in the health-care system of Finland. Such services not only were bought by persons but also constituted an important element in planning and in the public health-care system. Local municipalities, which were obliged to supply health services, often had recourse to the private sector if their own facilities were all occupied.

70. On the question of economic, social and cultural rights as basic rights, he explained that the first socialist government of Finland, upon its election in 1916, had begun to draft legislation concerning basic social rights. However, it had not lasted long enough in office to complete that task and the government which had emerged from the subsequent civil war had produced a constitution in the old liberal image, which did not guarantee basic human rights and other social rights, except the right to work.

71. Since the beginning of 1970, the Government had been seeking to incorporate economic, social and cultural rights into the Constitution. Several commissions and working groups had been drafting the necessary amendments. More time was needed, however, to effect those changes. None the less, since 1970 the country had developed a greater capacity to satisfy social needs and the time was not very far off when economic, social and cultural rights could be incorporated into the Constitution. The Finnish people believed that that process of incorporation was important, because history had taught them not only to be democrats but also to be legalists and that was their way of balancing basic human rights and achieving a synthesis in the national debate which had begun in Finland as early as 1916.

72. Replying to specific questions asked by the expert from Bulgaria, he said that under the Child Welfare Act of 1983, child guidance had been integrated into family counselling, and was a common service available in all day-care centres and schools.

(Mr. Mikkola, Finland)

73. Corporal punishment was prohibited by the Child Custody and Right of Access Act of 1983. Whether or not a parent had corporally punished a child was a criterion for determining which parent was better suited to receive custody of the child in the event of a separation. Criminal law stipulated sanctions for parents guilty of corporally punishing their child.

74. Ninety-five per cent of expectant mothers were examined before the fifth month of their pregnancy and special measures were taken to protect them from working environments dangerous to their health.

75. In answer to the questions raised by the expert from France, he said that decisions concerning joint custody of children were made by both parents. While, in the past, legally binding decisions had been made by the courts, today, decisions made by local social boards were also legally binding.

76. On the question of the aging of the population, he stated that 20 per cent of the current population was under 14 years of age, 68 per cent between 15 and 64 years and 12 per cent over 64 years. By the year 2000 those figures were expected to be 17, 68 and 15 per cent respectively, and Finland would therefore still be a relatively youthful country. Significant changes, however, would begin to occur by the year 2010.

77. With regard to the structure of taxation, low-income earners were granted special exemptions, and in the case of working parents the exemptions increased in accordance with the number of children. There were also special taxation régimes governing single parents and persons who paid child-maintenance allowances.

78. A mother was entitled to 100 days' maternity allowance after the birth of her child, and the father to 12 days' paternity allowance. It was possible for both spouses to receive their allowances simultaneously. After 100 days the parents must decide which of them would remain at home and receive a further 158 days of parents' allowance. In four out of five cases, it was the mother who remained at home.

79. On the question of bilateral social agreements, Finland had signed such agreements with the Federal Republic of Germany, Switzerland, the United Kingdom, Spain and Austria, and was currently negotiating others with Canada and Greece.

80. The necessary information on the content of food products, including additives was required by law to be indicated on product labels.

81. In view of the pattern of movement into and from Finland, particularly from and into other Nordic countries, two agreements, concerning private custody of children on the one hand and child welfare and foster-family placements on the other, had been signed with the other Nordic countries 10 years previously.

82. Replying to the questions of the expert from Spain, he explained that, while the common age of retirement remained 65 - and, for public-sector employees, 63 - there were increasing possibilities for persons who wished to retire earlier to do so.

(Mr. Mikkola, Finland)

83. Survivors' pensions were payable under both basic pension schemes and earnings-related pension schemes. Spouses were taxed separately and the spouse with the lower income was entitled to higher deductions if they had children. The provisions were the same for unmarried couples if they had been together for at least one year or if they had children. The population register was used to determine whether couples had lived together for the period in question.

84. A maternity benefit of $US 200 was paid by the maternal and child centre before the birth of the child. The maternity allowance was a daily allowance paid to the mother for at least 100 days. Child allowances were payable for all children up to the age of 17 years while the child home-care allowance was an alternative to the service of public day-care centres for children under three years of age. Those benefits were awaiting codification in national legislation.

85. In Finland there were less than 40,000 new marriages each year and more than 10,000 divorces. There were 4,000 children in foster families and approximately the same number in child-care institutions.

86. Replying to the questions raised by the expert from the Soviet Union, he stated that five-year plans at the State and municipal levels contained provisions for social welfare and health care.

87. The average Finnish family paid 38 per cent of earned income in income tax. Expenditure on food accounted for 23 per cent of earned income, and other living expenses such as rent and electricity accounted for almost the same percentage. The breakdown of household expenditure was therefore different from that in the Soviet Union.

88. In his Government's view, the current figure of 24 per cent of gross national product allocated to social expenditure was not a "high" figure. While there was a 500-day time-limit on earnings-related unemployment benefit, there was no such limit on basic daily allowances. The last recourse of the unemployed was the living allowance paid by local social authorities.

89. On the question of youth employment raised by the expert from Japan, he said that all children were required to attend school up to the age of 17, and many continued in school beyond that age. The problem was not one of the employment of children in the labour force, but rather the fact that children had no clear idea of what work was, since the concepts of work learned at school were very abstract. All children were therefore required to spend a period of time in a work place before leaving school.

90. Mr. RUSI (Finland) said that the questions asked by the expert from Denmark were sophisticated and future-oriented. Replies to those questions would be included in the third periodic report of Finland.

91. Mr. MIKKOLA (Finland), replying to the questions raised by the expert from the German Democratic Republic, said that, like all other international instruments to which Finland was a party, the Covenant had been published in Finland.

92. Foreigners permitted to reside in Finland for periods of more than one year enjoyed all the rights of citizens. Citizens of other Nordic countries, however, enjoyed such rights from the first day of their stay in Finland.

93. His Government had discovered no new method of reducing unemployment. It placed emphasis, however, on good industrial relations, an active export and import policy and high-level scientific and technical co-operation with Finland's neighbours, particularly the USSR and Sweden.

94. In order to qualify for unemployment benefits, a person was required to be unemployed, a job applicant, resident in Finland and ready to accept a full-time job. To qualify for an earnings-related daily allowance, a person must have been a member of an unemployment fund for at least six months.

95. Replying to the questions raised by the expert from Mexico, he explained that, while Finland was aware of the problem of the effect of an aging population on social policy, the above-64 age group would place no undue pressures on social services before the year 2000. The primary focus of current policy was to maintain the elderly active and in their own milieux as long as possible and to promote home care and other forms of non-institutional care.

96. With regard to the problem of overnutrition, emphasis was placed on promoting proper nutritional habits through guidance and counselling in maternity and child centres. Hot meals were also provided in day-care centres and schools.

97. Finland had a higher proportion of employed women in the labour market than any other Western European country. The figure of 6-per-cent unemployment included unemployed women.

98. The CHAIRMAN said that the Working Group had concluded its consideration of the report of Finland.

The meeting rose at 6.10 p.m.